

ROBERT A. VAN NEST (SBN 84065)  
rvannest@kvn.com  
CHRISTA M. ANDERSON (SBN 184325)  
canderson@kvn.com  
KEKER & VAN NEST LLP  
633 Battery Street  
San Francisco, CA 94111-1809  
Telephone: (415) 391-5400  
Facsimile: (415) 397-7188

KING & SPALDING LLP  
DONALD F. ZIMMER, JR. - #112279  
fzimmer@kslaw.com  
CHERYL A. SABNIS - #224323  
csabnis@kslaw.com  
101 Second Street, Suite 2300  
San Francisco, CA 94105  
Telephone: (415) 318-1200  
Facsimile: (415) 318-1300

Attorneys for Defendant  
GOOGLE INC.

KING & SPALDING LLP  
SCOTT T. WEINGAERTNER (*Pro Hac Vice*)  
sweingaertner@kslaw.com  
ROBERT F. PERRY  
rperry@kslaw.com  
BRUCE W. BABER (*Pro Hac Vice*)  
bbaber@kslaw.com  
1185 Avenue of the Americas  
New York, NY 10036-4003  
Telephone: (212) 556-2100  
Facsimile: (212) 556-2222

GREENBERG TRAURIG, LLP  
IAN C. BALLON - #141819  
ballon@gtlaw.com  
HEATHER MEEKER - #172148  
meekerrh@gtlaw.com  
1900 University Avenue, Fifth Floor  
East Palo Alto, CA 94303  
Telephone: (650) 328-8500  
Facsimile: (650) 328-8508

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 3:10-cv-03561 WHA

**[PROPOSED] ORDER GRANTING  
DEFENDANT GOOGLE INC.'S SECOND  
MOTION TO STRIKE PORTIONS OF  
THE MITCHELL PATENT REPORT**

Date: October 13, 2011  
Time: 8:00 a.m.  
Courtroom: 9, 19th Floor  
Judge: The Honorable William Alsup

Trial Date: October 31, 2011

1 On October 13, 2011 the above-captioned action came on for hearing before this Court  
2 on Defendant Google Inc.'s ("Google") Second Motion to Strike Portions of the Mitchell Patent  
3 Report. After consideration of the parties' respective submissions, the arguments of counsel, and  
4 the entire record in this matter, the Court hereby GRANTS Google's motion and orders as  
5 follows:

6 (a) Paragraphs 606, 622-627 (as they relate to the *vfork()* and *clone()* mechanisms and the  
7 '720 patent) are stricken from the Mitchell Patent Report. Dr. Mitchell cannot testify  
8 regarding the *vfork()* and *clone()* mechanisms at trial.

9 (b) Paragraphs 70, 77 (as they relate to the '476 patent) are stricken from the Mitchell  
10 Patent Report. Dr. Mitchell cannot testify regarding the mBS Mobile product at trial.

11 (c) Paragraph 115 (as it relates to the '476 patent) is stricken from the Mitchell Patent  
12 *Reply* Report. Dr. Mitchell cannot testify regarding infringement theories for the '476  
13 patent that do not require the SecurityManager at trial.

14 (d) Paragraph 92 (as it relates to the '520 patent) of the Mitchell *Reply* Report is stricken  
15 to the extent it relies on a theory of infringement wherein static array initialization is  
16 performed by more than one instruction. Dr. Mitchell cannot testify regarding  
17 infringement theories for the '520 patent where static array initialization is performed by  
18 more than one instruction.

19 (e) Paragraph 92 (as it relates to the '520 patent) of the Mitchell *Reply* Report is stricken  
20 to the extent it relies on a theory of infringement that does not require the fill-array-data  
21 instruction. Dr. Mitchell cannot testify regarding infringement theories for the '520  
22 patent that do not use the fill-array-data instruction.

23  
24 IT IS SO ORDERED:

25  
26 Dated: \_\_\_\_\_

27  
28 \_\_\_\_\_  
Honorable Judge William Alsup